

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 17 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANIMAL PROTECTION AND RESCUE
LEAGUE, a non profit corporation;
DOROTA VALLI, an individual,

Plaintiffs - Appellants,

VALERIE O'SULLIVAN,

Intervenor - Intervenor,

v.

STATE OF CALIFORNIA; THE CITY OF
SAN DIEGO DEPARTMENT OF PARKS
AND RECREATION; JERRY
SANDERS, Mayor; DOES, 1 to 100,

Defendants - Appellees.

No. 08-55319

D.C. No. CV 07-2320-JM-AJB

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
Jeffrey T. Miller, District Judge, Presiding

Argued and Submitted June 4, 2008
Pasadena, California

^{*} This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

Before: KOZINSKI, Chief Judge, ALDISERT, ** and D.W. NELSON, Circuit Judges.

Appellants challenge the application of a state law that was interpreted by a state court to require the dispersal of a colony of harbor seals. Appellants contend that the state law conflicts with the local government's obligations under the federal Marine Mammal Protection Act ("MMPA"). The district court dismissed the suit pursuant to the *Younger* abstention doctrine. *See Younger v. Harris*, 401 U.S. 37 (1971).

We lack federal question jurisdiction over this matter. *See* 28 U.S.C. § 1331. Appellants are not challenging the grant or denial of a permit application under the MMPA. *See* 16 U.S.C. § 1374(d)(6). This court does not otherwise have jurisdiction to consider appellants' suit seeking to enforce the terms of the MMPA. *See Didrickson v. U.S. Dep't of Interior*, 982 F.2d 1332, 1338 (9th Cir. 1992) ("[T]he MMPA does not provide for citizens to sue to enforce the statute").

DISMISSED.

** The Honorable Ruggero J. Aldisert, Senior United States Circuit Judge for the Third Circuit, sitting by designation.